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June 10, 2019

District Judge Joanna Seybert
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722

Re: 2:19-cv-00974-JS-GRB
Sibrian v. Cento Fine Foods, Inc.

Dear District Judge Seybert:

This office represents the plaintiff in the above action. On May 23, 2019, defendant sought a pre-motion conference pursuant to Fed. R. Civ. P. 12(b)(1) and (b)(6) and served a 74-page Rule 11 Motion for Sanctions which contained approximately 50 pages of documents in Italian, without any translations. ECF No. 8 (pre-motion letter).

Plaintiff presently requests an extension of 21 days to file the first amended complaint (“FAC”). Individual Motion Practices (“Individual Rules”), Section I(E)(3). The original date by which plaintiff intended to file the FAC is Friday, June 14, 2019. ECF No. 9 and May 31, 2019 Order on Motion for Pre Motion Conference. There have been no previous requests for extensions or adjournments of this date.

On June 8, 2019, the undersigned requested an extension of 14 days to file the FAC from defendant’s counsel via email. The basis for this request was the additional time needed to translate the Italian documents and review them with Italians knowledgeable in this industry. Additionally, plaintiff stated that defendant’s Rule 11 motion had the indicia of a Rule 12 motion, incorporating documents outside of the pleadings.

In response to plaintiff’s request for an extension, defendant’s lead counsel, Daniel Tyler, stated on June 8, 2019:

Short answer is no, Spenser. We do not agree to an extension. You’ve had three months to do your homework. Its not surprising we are were we are. I assume your translation is the same as ours. I hope you withdraw. If you would like it, let me know. We will renew our rule 11 motion as soon as you refile.

...

No, we do not agree.

Plaintiff disagrees with defendant’s statement that it has had these documents for three months and that it did not “do its homework.” These papers were only received as a result of defendant’s sanctions motion served on May 23, 2019. As to defendant’s requests that plaintiff

withdraw the action, plaintiff submits the FAC will provide additional factual support for the allegations. To the extent that the time period for plaintiff's "safe harbor" will expire on June 14, 2019, it is plaintiff's expectation that the FAC – which will provide testing results for the Products and other documents only recently made available – will sufficiently address defendant's contentions.

Should the Court grant plaintiff's request for an extension, plaintiff will file the FAC on or before Friday, July 5, 2019. Thank you.

Respectfully submitted,

/s/ Spencer Sheehan
Spencer Sheehan

Certificate of Service

I certify that on June 10, 2019, I served the foregoing by the method below to the persons or entities indicated, at their last known address of record (blank where not applicable).

| | CM/ECF | First-Class Mail | Email |
|----------------------------|-------------------------------------|--------------------------|--------------------------|
| <u>Defendant's Counsel</u> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

/s/ Spencer Sheehan
Spencer Sheehan